



## TOWN MEETING

**ARTICLE:** 34 - Registered Marijuana Dispensaries

To see if the Town will vote to amend the Zoning Bylaw to define and/or regulate the location, use, acquisition, commercial and home cultivation, processing, transfer, transport, sale, distribution, and/or dispensing of medical marijuana and to define and regulate Registered Marijuana Dispensaries in the Town as authorized under 105 CMR 725: Implementation of an Act for the Humanitarian Medical Use of Marijuana; or to make any similar or other changes to the Zoning Bylaw which would have the same or substantially the same purpose; or take any other action relative thereto.

**MOTION:** 1

That the Zoning Bylaw be amended, as follows, to define and regulate Registered Marijuana Dispensaries in the Town, establishing regulations for the location, operation, and permitting of such uses, thereby reasonably allowing such uses as authorized under the *Act for the Humanitarian Medical Use of Marijuana* and Massachusetts Department of Public Health regulations 105 CMR 725.000: *Implementation of an Act for the Humanitarian Medical Use of Marijuana*; the following amendments shall not be effective until July 1, 2014 and Section XVIG, *Temporary Moratorium on Medical Marijuana Treatment Centers*, of the Zoning Bylaw shall not be rescinded until such date.

- **By amending Section IA., Definitions, of the Zoning Bylaw, to add the following term and definition in alphabetical order:**

Registered Marijuana Dispensary - A not-for-profit entity and use registered under 105 CMR 725.100, and previously known as a Medical Marijuana Treatment Center, which may acquire, cultivate, possess, process (including development of related products such as edible Marijuana-Infused Products, tinctures, aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense, and/or administer marijuana, products containing marijuana, related supplies, and/or educational materials to registered qualifying patients or their personal caregivers. Also referred to herein as "RMD" or "RMDs". Not to include non-medical dispensaries.

- 1     ▪ **By additionally amending Section IA., *Definitions*, of the Zoning Bylaw, by**  
2     **deleting the term “Special Permit Granting Authority”, and the definition**  
3     **thereof, in its entirety and inserting the following definition therefor:**

4  
5     Special Permit Granting Authority - Zoning Board of Appeals except as  
6     otherwise designated by this Zoning Bylaw for the granting of special  
7     permits. For the review and issuance of special permits for Registered  
8     Marijuana Dispensaries, as allowed by this Bylaw and established in  
9     Section XXV, B., 5., b., the Board of Selectmen shall act as the Special  
10    Permit Granting Authority. For the purposes of SECTION XIVB. FLOOD  
11    PLAIN OR WATERSHED PROTECTION DISTRICTS. and SECTION XIVE.  
12    WATER SUPPLY PROTECTION DISTRICTS. and SECTION XVIA. PROJECT  
13    APPROVAL. the Planning Board shall act as the Special Permit Granting  
14    Authority for subdivision applications processed under the provisions of  
15    the Subdivision Control Law (Chapter 41, Sections 81K - GG M.G.L.) and  
16    for approval of projects of significant impact. When the Planning Board  
17    is acting as Special Permit Granting Authority, the chairman may call  
18    upon the associate member to sit on the Board for the purposes of  
19    acting on an application, in the case of absence, inability to act, or  
20    conflict of interest on the part of any member, or in the event of a  
21    vacancy on the Board. The provisions for filling the position of associate  
22    member shall be governed by Article 45 of the Town Bylaws.

- 23  
24    ▪ **By amending Section II., *Single Residence Districts*, A., 8., b., of the Zoning**  
25    **Bylaw, by inserting the following language (not to include the quotation**  
26    **marks) between the words “purpose” and “provided”:**

27  
28    “, not to include Registered Marijuana Dispensaries,”

- 29  
30    ▪ **By amending Section IX., *Administrative and Professional Districts*, A., 2., of**  
31    **the Zoning Bylaw, by deleting the subsection in its entirety and inserting the**  
32    **following therefor:**

33  
34    2. Administrative offices, clerical offices, statistical offices, professional  
35    offices, establishments for research and development, including  
36    light manufacturing incidental to such research and development,  
37    and any additional use for which a special permit may be obtained  
38    in accordance with SECTION XXV. after the determination by the  
39    Special Permit Granting Authority that the proposed use is similar to  
40    one or more of the uses specifically authorized by this SECTION IX.  
41    also, in connection therewith, the parking of motor vehicles and  
42    such other accessory uses as are customary. Registered Marijuana  
43    Dispensaries shall be allowed with the issuance of a special permit  
44    in accordance with SECTION XXV and subject to additional  
45    provisions included therein.

- 1
- 2   ▪ **By amending Section IX., *Administrative and Professional Districts*, of the**
- 3   **Zoning Bylaw, by adding a subsection “C.”, as follows, to ensure clarity and**
- 4   **the continuation of existing regulations due to the preceding alteration:**
- 5

6   C. All uses shall be subject to conformity with the following

7   requirements:

8

- 9       1. No building or other structure shall be erected or placed on a
- 10       lot containing less than forty thousand (40,000) square feet in
- 11       area.
- 12
- 13       2. No building or addition to any building shall be erected or
- 14       placed on a lot which will result in the covering by buildings of
- 15       more than 20% of the lot area.
- 16
- 17       3. No building or structure other than accessory buildings shall be
- 18       located within fifty (50) feet of any property boundary line
- 19       abutting a public or private way or within fifty (50) feet of any
- 20       other property boundary line. No accessory buildings may be
- 21       erected within thirty (30) feet of any such property boundary
- 22       lines.
- 23
- 24       4. Off-street parking shall be provided in accordance with
- 25       SECTION XXI.
- 26
- 27       5. PROJECT APPROVAL. The provisions of SECTION XVIA. PROJECT
- 28       APPROVAL. shall apply.
- 29
- 30       6. FLOOR AREA RATIO: The maximum floor area ratio as defined in
- 31       SECTION IA. DEFINITIONS. shall be 0.30.
- 32

- 33   ▪ **By amending Section IXB., *Lower Falls Village Commercial District*, B., 9., of**
- 34   **the Zoning Bylaw, by adding an item “c.” as follows:**
- 35

36       c. Registered Marijuana Dispensaries

37

- 38   ▪ **By amending Section IXC., *Wellesley Square Commercial District*, A., 13., of**
- 39   **the Zoning Bylaw, by adding an item “k.” as follows:**
- 40

41       k. Registered Marijuana Dispensaries

42

- 43   ▪ **By amending Section XI., *Business Districts*, A., 13., of the Zoning Bylaw, by**
- 44   **adding an item “k.” as follows:**
- 45

1 k. Registered Marijuana Dispensaries

- 2  
3 ■ **By amending Section XIII., *Industrial Districts, A., 11., of the Zoning Bylaw, by***  
4 **adding an item “c.” as follows:**

5  
6 c. Registered Marijuana Dispensaries

- 7  
8 ■ **By amending the Zoning Bylaw by deleting Section XVIG, *Temporary***  
9 ***Moratorium on Medical Marijuana Treatment Centers, in its entirety, and any***  
10 **reference thereto.**  
11  
12 ■ **By amending Section XXV., *Special Permit Granting Authority, B., of the***  
13 **Zoning Bylaw, by adding an item “6.” as follows:**

14  
15 6. Registered Marijuana Dispensaries

16  
17 a. Purpose - The purpose of this subsection is to regulate the  
18 siting, design, placement, security, safety, monitoring, and  
19 modifications of Registered Marijuana Dispensaries (“RMDs”)  
20 within the Town of Wellesley to ensure that such uses are  
21 operated in a manner consistent with the overall health,  
22 welfare and safety of the Town in compliance with the  
23 Chapter 369 of the Acts of 2012, *An Act for the Humanitarian*  
24 *Medical Use of Marijuana*, and 105 CMR 725.000:  
25 *Implementation of an Act for the Humanitarian Medical Use*  
26 *of Marijuana*, and to minimize the adverse impacts of RMDs  
27 on adjacent properties, residential neighborhoods, schools  
28 and other places where children congregate, and other land  
29 uses potentially incompatible with said RMDs.

30  
31 b. Compatibility with State Laws - These regulations pertaining to  
32 RMDs are not intended to supersede state laws and/or  
33 regulations, including but not limited to Chapter 369 of the  
34 Acts of 2012, *An Act for the Humanitarian Medical Use of*  
35 *Marijuana*, and 105 CMR 725.000: *Implementation of an Act*  
36 *for the Humanitarian Medical Use of Marijuana*; rather, these  
37 regulations shall take precedence where they are more  
38 stringent, and where a matter is not addressed herein,  
39 compliance with 105 CMR 725.000 shall be required. Terms  
40 used herein not defined within the Zoning Bylaw shall be as  
41 defined in 105 CMR 725.000.

42  
43 c. Applicability and Authority

44  
45 1. Applicability:

- a. No RMD use shall commence unless permitted by the issuance of a special permit as authorized by this Section and subsection.
  - b. No special permit for an RMD use shall be issued unless the use is located in one of the zoning districts established within the Zoning Bylaw specifically authorizing such use.
  - c. The establishment and operation of RMDs shall be subject to continued compliance with all special permits, including any conditions thereof, the provisions of this Section and subsection, and any other applicable requirements of the Zoning Bylaw and state laws and regulations.
  - d. The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana is prohibited unless permitted as an RMD as required and authorized by the Zoning Bylaw.
  - e. Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.
2. Authority: The Special Permit Granting Authority is empowered to review and take action on special permit applications for Registered Marijuana Dispensaries consistent with the procedures established in subsection C. of this Section; the Special Permit Granting Authority may deny, grant, or grant with conditions all such applications.
- d. General Regulations - All RMDs shall be subject to the following conditions and limitations:
    1. Location:
      - a. No special permit for an RMD shall be granted where such use would be located within 500 feet of a:
        - i. Public or private elementary school, middle school, or high school;

1                   ii. Child care facility, including family daycare homes,  
2                   daycare centers, and/or nursery schools; or

3  
4                   iii. Any establishment catering to or providing services  
5                   primarily intended for minors, as determined by the  
6                   Special Permit Granting Authority.

7  
8                   b. The 500 foot distance shall be measured in a straight  
9                   line from the nearest point of the structure within which  
10                  the RMD would operate (from the nearest point of the  
11                  exterior of the tenant space if the RMD is located in a  
12                  structure occupied by multiple tenant spaces), to the  
13                  nearest point of any property on which a public or  
14                  private elementary school, middle school, or high  
15                  school is located, or to the nearest point of any  
16                  structure containing or associated with other uses  
17                  noted above.

18  
19                  c. The commencement of one or more of the above uses  
20                  within 500 feet of a proposed RMD location during the  
21                  review of a special permit application for an RMD  
22                  (beginning on the date of submittal), following the  
23                  issuance of a special permit, or following the  
24                  commencement of the RMD use shall not invalidate  
25                  the RMD use, the special permit issued therefor, or the  
26                  ability to renew any unexpired or unrevoked special  
27                  permit.

28  
29                  2. Configuration and Operation:

30  
31                  a. An RMD shall be located in, and conduct all operations  
32                  within, an enclosed building; this shall not prohibit  
33                  operations involving the delivery or receiving of  
34                  permitted goods and products, which may involve  
35                  transfer to or from a motor-vehicle outside of an  
36                  associated building.

37  
38                  b. All publicly accessible entrances shall be visible from a  
39                  public way.

40  
41                  c. Drive-through windows and/or any interactions or sales  
42                  to customers within vehicles are prohibited.

43  
44                  d. No RMD shall be located inside a building containing  
45                  residential dwelling units, including transient housing,

1 group housing, hotels, motels, lodging houses, and/or  
2 dormitories.

3  
4 e. The hours of operation of RMDs shall be set by the  
5 Special Permit Granting Authority, but in no event shall  
6 an RMD be open to the public, performing deliveries,  
7 and/or otherwise operating between the hours of 8:00  
8 PM and 8:00 AM; there shall be no exemptions to the  
9 prohibited hours of operation for emergencies.

10  
11 f. No person under the age of eighteen (18) shall be  
12 permitted on the premises of the RMD unless he or she  
13 is a qualified patient or primary caregiver, or is  
14 accompanied by a parent or legal guardian.

15  
16 g. No marijuana shall be smoked, ingested, or otherwise  
17 consumed on the premises of an RMD; the term  
18 "premises" includes all buildings, accessory structures,  
19 parking lots or parking areas, walks and/or other  
20 immediate surroundings located on the same  
21 lot/parcel as the RMD use.

22  
23 h. All RMDs shall be ventilated in such a manner that no  
24 pesticides, insecticides or other chemicals or products  
25 used in cultivation or processing are dispersed into the  
26 outside atmosphere, and so that no odor from  
27 marijuana or its processing can be detected by a  
28 person with an unimpaired and otherwise normal sense  
29 of smell at the exterior of the RMD or at any adjoining  
30 use or property.

31  
32 3. Signage:

33  
34 a. All signs associated with RMDs shall comply with 105  
35 CMR 725.000 and Section XXIIA, *Signs*.

36  
37 b. All special permit applications for RMDs shall include a  
38 proposed exterior sign package, which may be  
39 included as a condition of issuance of the special  
40 permit.

41  
42 c. For every publicly accessible entrance there shall be at  
43 least one (1) sign that includes the language  
44 "Registration card issued by the MA Department of  
45 Public Health required" with a minimum text height of

1 two (2) inches.

2  
3 d. Temporary signs and standard informational signs, as  
4 defined in Section XXIIA, *Signs*, shall be prohibited.

5  
6 4. Security:

7  
8 a. RMDs shall provide the Wellesley Police Department,  
9 Inspector of Buildings and the Special Permit Granting  
10 Authority with the names, phone numbers and email  
11 addresses of all management staff and keyholders to  
12 whom one can provide notice if there are operating  
13 problems associated with the establishment; this  
14 information shall be updated when staff of the RMD  
15 changes.

16  
17 b. No operator and/or employee of an RMD shall have  
18 been convicted of any felony under state or federal  
19 law.

20  
21 c. Trash dumpsters shall be locked and enclosed by a  
22 screening enclosure so as not to be accessible to the  
23 public.

24  
25 d. The exterior grounds, including the parking lot and  
26 landscaped areas, shall be lighted in such a manner  
27 that all areas are clearly visible at all times during  
28 business hours; all light fixtures shall have full cut off  
29 shields.

30  
31 e. The RMD shall be equipped with, and the operators of  
32 such RMD shall maintain in working order at all times,  
33 burglary/robbery alarms.

34  
35 f. A video surveillance system in compliance with 105  
36 CMR 725.000 shall be installed and maintained; the  
37 system shall monitor all areas that may contain  
38 marijuana, parking lot areas, main building entrances  
39 and exits, and any and all transaction areas for the  
40 dispensing of marijuana.

41  
42 g. Procedures and protocols for the delivery and transport  
43 of marijuana and MIPs shall be in compliance with 105  
44 CMR 725.000 and approved by the Chief of Police.  
45



e. Procedures and Findings

1. Procedures: In addition to the procedures established in subsection C. of this Section, special permits issued for RMDs shall be:
  - a. Limited to the current applicant and shall lapse if the permit holder ceases operating the RMD;
  - b. Renewed annually.
2. Findings: In addition to determining compliance with the above General Regulations, all other applicable Sections of the Zoning Bylaw, and the applicable Special Use Permit Standards contained in subsection D. of this Section, the Special Permit Granting Authority in their review of any special permit application for an RMD shall find that the proposed Registered Marijuana Dispensary:
  - a. Meets a demonstrated local and regional need based on the proximity of other RMDs serving the Town's qualifying patients;
  - b. Meets all other applicable requirements of the Zoning Bylaw and the permitting requirements of all applicable agencies of the Commonwealth of Massachusetts and the Town of Wellesley, and will otherwise comply with all applicable state and local laws and regulations;
  - c. Is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
  - d. Provides a secure indoor waiting area for patients;
  - e. Provides adequate pick up/drop off area;
  - f. Provides adequate security measures to ensure that no individual participants will pose a threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities; and
  - g. Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the RMD.

- 1  
2 f. Severability - The provisions of this subsection (6. Registered  
3 Marijuana Dispensaries) are severable. If any provision, paragraph,  
4 sentence, or clause of this Section, or the application thereof to any  
5 person, establishment, or circumstances, shall be held invalid, such  
6 invalidity shall not affect the other provisions or application of this  
7 Section or the Zoning Bylaw.  
8
- 9 ▪ **By amending Section XXV., Special Permit Granting Authority, C., 2., of the**  
10 **Zoning Bylaw, by deleting the subsection in its entirety and inserting the**  
11 **following therefor:**  
12
- 13 2. All but one of the members of the Special Permit Granting  
14 Authority consents thereto; and